

panels.<sup>4</sup> Therefore, the CIT remanded Commerce's determination to Commerce with the instruction that Commerce issue a scope ruling concerning Finewood's two-ply panels that is consistent with the unambiguous meaning of the *Orders*.<sup>5</sup>

In its final remand redetermination, issued in June 2023, Commerce adopted the CIT's interpretation of the scope of the *Orders* and determined that hardwood plywood exported to the United States by Finewood that was produced using two-ply panels imported into Vietnam from China is not subject to the scope of the *Orders*.<sup>6</sup> The CIT sustained Commerce's final redetermination.<sup>7</sup>

#### Timken Notice

In its decision in *Timken*,<sup>8</sup> as clarified by *Diamond Sawblades*,<sup>9</sup> the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's August 22, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's Final Scope Ruling. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Scope Ruling

Because there is now a final court judgment, Commerce is amending its Final Scope Ruling to find that hardwood plywood exported to the United States by Finewood that was produced using two-ply panels imported into Vietnam from China is not subject to the scope of the *Orders*.

#### Liquidation of Suspended Entries

Commerce will instruct CBP that, pending any appeals, the cash deposit rate will be zero percent for merchandise subject to the scope ruling. In the event that the CIT's final judgment is not appealed or is upheld

on appeal, Commerce will notify CBP of our amended scope ruling in response to its covered merchandise referral and will instruct CBP to liquidate any unliquidated entries of hardwood plywood exported to the United States by Finewood that was produced using two-ply panels imported into Vietnam from China without regard to antidumping and countervailing duties and to lift suspension of liquidation of such entries.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: August 29, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Industrial Advisory Committee

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Industrial Advisory Committee (Committee) will hold an open meeting via web conference on Wednesday, November 8, 2023, from 10:30 a.m. to 3:30 p.m. Eastern Time. The primary purposes of this meeting are to update the Committee on the progress of the CHIPS R&D Programs, receive updates from the Committee working groups, and allow the Committee to deliberate and discuss the progress that has been made. The final agenda will be posted on the NIST website at <https://www.nist.gov/chips/industrial-advisory-committee>.

**DATES:** The Industrial Advisory Committee will meet on Wednesday, November 8, 2023, from 10:30 a.m. to 3:30 p.m. Eastern Time. The meeting will be open to the public.

**ADDRESSES:** The meeting will be held via web conference. For instructions on how to attend and/or participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Tamiko Ford at [Tamiko.Ford@NIST.gov](mailto:Tamiko.Ford@NIST.gov) or (202) 594-6793.

**SUPPLEMENTARY INFORMATION:** The Committee was established pursuant to 15 U.S.C. 4656(b). The Committee is

currently composed of 24 members, appointed by the Secretary of Commerce, to provide advice to the United States Government on matters relating to microelectronics research, development, manufacturing, and policy. Background information on the CHIPS Act and information on the Committee is available at <https://www.nist.gov/chips/industrial-advisory-committee>. Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the Industrial Advisory Committee will meet on Wednesday, November 8, 2023, from 10:30 a.m. to 3:30 p.m. Eastern Time. The meeting will be open to the public and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purposes of this meeting are to update the Committee on the progress of the CHIPS R&D Programs, receive updates from the Committee working groups, and allow the Committee to deliberate and discuss the progress that has been made. The final agenda will be posted on the NIST website at <https://www.nist.gov/chips/industrial-advisory-committee>. Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to submit comments in advance of the meeting. Written comments may be submitted via the registration link. Approximately ten minutes will be reserved for public comments, which will be read on a first-come, first-served basis. Please note that all submitted comments, including those not read during the meeting, will be treated as public documents and will be made available for public inspection. The Committee will not consider or deliberate upon comments from the public during this period. All those wishing to submit a comment must submit their request and comment via the registration link by 5:00 p.m. Eastern Time, Friday, November 3, 2023.

All visitors to the meeting are required to pre-register to be attend. Anyone wishing to attend via web conference must register by 5:00 p.m. Eastern Time, Friday, November 3, 2023, to attend. Please submit your full name, the organization you represent (if applicable), email address, and phone number via <https://events.nist.gov/profile/18507>. Non-U.S. citizens must submit additional information; please

<sup>4</sup> See *Vietnam Finewood Co. v. United States*, 633 F. Supp. 3d 1243, 1255 (CIT 2023).

<sup>5</sup> *Id.*, 633 F. Supp. 3d at 1265.

<sup>6</sup> See *Final Results of Redetermination Pursuant to Court Remand, Vietnam Finewood Company Limited, et al., v. United States*, Consol. Court No. 22-00049, Slip-Op. 23-58, dated June 16, 2023 (*Final Results*) at 5.

<sup>7</sup> See *Far East American, Inc. et al. v. United States*, Consol. Court No. 22-00049, Slip Op. 23-122 (CIT August 22, 2023).

<sup>8</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>9</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

contact Tamiko Ford at [Tamiko.Ford@nist.gov](mailto:Tamiko.Ford@nist.gov).

**Alicia Chambers,**

*NIST Executive Secretariat.*

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**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XD220]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to In-Water Construction on Bainbridge Island, Washington

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of renewal incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a Renewal incidental harassment authorization (IHA) to Washington State Department of Transportation (WSDOT) Ferries Division to incidentally harass marine mammals incidental to the Bainbridge Island Ferry Terminal Overhead Loading Replacement Project on Bainbridge Island, Washington within the Puget Sound.

**DATES:** This renewal IHA is valid from September 16, 2023 through September 15, 2024.

**ADDRESSES:** Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Marine Mammal Protection Act (MMPA) prohibits the “take” of marine mammals, with certain exceptions.

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, an incidental harassment authorization is issued.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in Section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA,

provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

3. Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals).

#### History of Request

On September 16, 2022, NMFS issued an IHA to WSDOT to take marine mammals incidental to two in-water construction projects on Bainbridge Island, Washington, in the Puget Sound: the Bainbridge Island Ferry Terminal Overhead Loading Replacement Project and Eagle Harbor Maintenance Facility Slip F Improvement Project (87 FR 58313), effective from September 16, 2022 through September 15, 2023. On February 15, 2023, NMFS received an application for the renewal of that initial IHA. As described in the application for the Renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but